

[COMMITTEE PRINT]

June 13, 2001

[Showing H.R. 1408, As Adopted by the Subcommittee on
Financial Institutions and Consumer Credit]

107TH CONGRESS
1ST SESSION

H. R. 1408

IN THE HOUSE OF REPRESENTATIVES

APRIL 4, 2001

Mr. ROGERS of Michigan (for himself, Mr. OXLEY, Mrs. KELLY, Mr. BACHUS, and Mr. TIBERI) introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committees on the Judiciary, and Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

[Strike out all after the enacting clause and insert in lieu thereof the part printed in roman]

[For text of introduced bill, see copy of bill as introduced on April 4, 2001]

A BILL

To safeguard the public from fraud in the financial services industry, to streamline and facilitate the antifraud information-sharing efforts of Federal and State regulators, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*



1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Financial Services Antifraud Network Act of 2001”.

4 (b) TABLE OF CONTENTS.—The table of contents of
5 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Purposes.

TITLE I—ANTIFRAUD NETWORK

Subtitle A—Direction to Financial Regulators

Sec. 100. Creation and operation of the network.

Subtitle B—Potential Establishment of Antifraud Subcommittee

Sec. 101. Establishment.

Sec. 102. Purposes of the Subcommittee.

Sec. 103. Chairperson; term of chairperson; meetings; officers and staff.

Sec. 104. Nonagency status.

Sec. 105. Powers of the Subcommittee.

Sec. 106. Agreement on cost structure.

Subtitle C—Regulatory Provisions

Sec. 111. Agency supervisory privilege.

Sec. 112. Confidentiality of information.

Sec. 113. Liability provisions.

Sec. 114. Authorization for identification and criminal background check.

Sec. 115. Definitions.

Sec. 116. Technical and conforming amendments to other acts.

Sec. 117. Audit of State insurance regulators.

TITLE II—SECURITIES INDUSTRY COORDINATION

Subtitle A—Disciplinary Information

Sec. 201. Investment Advisers Act of 1940.

Sec. 202. Securities Exchange Act of 1934.

**Subtitle B—Preventing Migration of Rogue Financial Professionals to the
Securities Industry**

Sec. 211. Securities Exchange Act of 1934.

Sec. 212. Investment Advisers Act of 1940.

6 **SEC. 2. PURPOSES.**

7 The purposes of this Act are—



1 (1) to safeguard the public from fraud in the fi-
2 nancial services industry;

3 (2) to streamline the antifraud coordination ef-
4 forts of Federal and State regulators and prevent
5 failure to communicate essential information;

6 (3) to reduce duplicative information requests
7 by, and other inefficiencies of, financial services reg-
8 ulation;

9 (4) to assist financial regulators in detecting
10 patterns of fraud, particularly patterns that only be-
11 come apparent when viewed across the full spectrum
12 of the financial services industry; and

13 (5) to take advantage of Internet technology
14 and other advanced data-sharing technology to mod-
15 ernize the fight against fraud in all of its evolving
16 manifestations and permutations.

17 **TITLE I—ANTIFRAUD NETWORK**
18 **Subtitle A—Direction to Financial**
19 **Regulators**

20 **SEC. 100. CREATION AND OPERATION OF THE NETWORK.**

21 (a) SHARING OF PUBLIC INFORMATION.—The finan-
22 cial regulators shall, to the extent practicable and appro-
23 priate and in consultation with other relevant and appro-
24 priate agencies and parties—



1 (1) develop procedures to provide for a network
2 for the sharing of antifraud information; and

3 (2) include an ongoing mechanism or process
4 for coordinating discussion to further improve upon
5 the regulators' antifraud efforts over time as such
6 regulators deem appropriate.

7 (b) MINIMUM REQUIREMENTS.—The procedures de-
8 scribed in subsection (a) shall—

9 (1) provide for the sharing of public final dis-
10 ciplinary and formal enforcement actions taken by
11 the regulators that are accessible electronically relat-
12 ing to the conduct of persons engaged in the busi-
13 ness of conducting financial activities that is fraudu-
14 lent, dishonest, or involves a breach of trust or re-
15 lates to the failure to register with the appropriate
16 financial regulator as required by law;

17 (2) include a plan for effecting the sharing
18 among the regulators of relevant and useful anti-
19 fraud information relating to companies and other
20 persons engaged in conducting financial activities
21 that either—

22 (A) is accessible by the public; or

23 (B) pertains to such information as li-
24 censes and applications, financial affiliations
25 and name-relationships, aggregate trend data,



1 or reports generated by or for a regulator or
2 filed by a regulated entity with the regulator,
3 where the regulator determines such
4 information—

5 (i) is factual and substantiated; and

6 (ii) does not include personally identi-
7 fiable information on consumers; and

8 (3) provide that, if a financial regulator takes
9 an action against a person engaged in the business
10 of conducting financial activities on the basis of in-
11 formation described in paragraph (1) or (2) that was
12 received from another participant through the net-
13 work, the regulator shall notify the person of—

14 (A) the identity of the participant from
15 whom such information was received;

16 (B) the type of information that was re-
17 ceived from the other participant through the
18 network and would be relied on in taking the
19 adverse action; and

20 (C) the right to a reasonable opportunity
21 to respond to such information.

22 (c) IMPLEMENTATION.—

23 (1) SUBMISSION OF PLAN.—Within 6 months
24 from the date of the enactment of this Act, the fi-
25 nancial regulators shall submit to Congress their



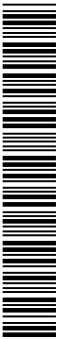
1 plan for meeting the requirements of subsections (a)
2 and (b).

3 (2) DEADLINE FOR IMPLEMENTATION.—Within
4 2 years from the date of the enactment of this Act,
5 the financial regulators shall establish the network
6 described in subsections (a) and (b).

7 (d) FINANCIAL REGULATORS DEFINED.—For the
8 purposes of this section, the term “financial regulators”
9 means the financial regulators described in subparagraphs
10 (A) through (N) of section 115(3).

11 (e) EFFECT OF IMPLEMENTATION ON SUBTITLE
12 B.—The provisions of Subtitle B shall not take effect if
13 the President, or a designee of the President, determines
14 that financial regulators meet the requirements of this sec-
15 tion with regard to substantially all of the financial regu-
16 lators.

17 (f) OTHER SHARING ARRANGEMENTS NOT AF-
18 FECTED.—No provision of this section shall be construed
19 as limiting or otherwise affecting the authority of a finan-
20 cial regulator to provide any person, including another
21 participant, access to any information in accordance with
22 any provision of law other than this Act.



1 **Subtitle B—Potential Establish-**
2 **ment of Antifraud Sub-**
3 **committee**

4 **SEC. 101. ESTABLISHMENT.**

5 (a) IN GENERAL.—Unless the President makes the
6 determination described in section 100(e), there shall be
7 within the President’s Working Group on Financial Mar-
8 kets (as established by Executive Order No. 12631) a sub-
9 committee to be known as the “Antifraud Subcommittee”
10 (hereafter in this title referred to as the “Subcommittee”)
11 which shall consist of the following members:

12 (1) The Secretary of the Treasury, or a des-
13 ignee of the Secretary.

14 (2) The Chairman of the Securities and Ex-
15 change Commission or a designee of the Chairman.

16 (3) A State insurance commissioner designated
17 by the National Association of Insurance Commis-
18 sioners, or a designee of such commissioner.

19 (4) The Chairman of the Commodities Futures
20 Trading Commission or a designee of such Chair-
21 man.

22 (5) A designee of the Federal Financial Institu-
23 tions Examination Council.



1 (b) FINANCIAL LIAISONS.—The following shall serve
2 as liaisons between the Subcommittee and the agencies
3 represented by each such liaison:

4 (1) A representative of each Federal banking
5 agency appointed by the head of each such agency.

6 (2) A representative of the Commodity Futures
7 Trading Commission appointed by the Commodity
8 Futures Trading Commission.

9 (3) A representative of the National Credit
10 Union Administration appointed by the National
11 Credit Union Administration Board.

12 (4) A representative of the Farm Credit Admin-
13 istration, appointed by the Farm Credit Administra-
14 tion Board.

15 (5) A representative of the Federal Housing Fi-
16 nance Board, appointed by such Board.

17 (6) A representative of the Office of Federal
18 Housing Enterprise Oversight of the Department of
19 Housing and Urban Development appointed by the
20 Director of such Office.

21 (7) A representative of State bank supervisors
22 designated by the Conference of State Bank Super-
23 visors.



1 (8) A representative of State savings associa-
2 tion supervisors designated by the American Council
3 of State Savings Supervisors.

4 (9) A representative of State credit union su-
5 pervisors designated by the National Association of
6 State Credit Union Supervisors.

7 (10) A representative of State securities admin-
8 istrators designated by the North American Securi-
9 ties Administrators Association.

10 (11) A representative of the National Associa-
11 tion of Securities Dealers appointed by the National
12 Association of Securities Dealers.

13 (12) A representative of the National Futures
14 Association appointed by the National Futures Asso-
15 ciation.

16 (13) Any other financial liaison as the Sub-
17 committee may provide to represent any other finan-
18 cial regulator or foreign financial regulator, includ-
19 ing self-regulatory agencies or organizations that
20 maintain significant databases on persons engaged
21 in the business of conducting financial activities,
22 designated in the manner provided by the Sub-
23 committee.

24 (c) OTHER LIAISONS.—



1 (1) LAW ENFORCEMENT LIAISONS.—The fol-
2 lowing shall serve as liaisons between the Sub-
3 committee and the agencies represented by each
4 such liaison:

5 (A) A representative of the Department of
6 Justice appointed by the Attorney General.

7 (B) A representative of the Federal Bu-
8 reau of Investigation appointed by the Director
9 of such Bureau.

10 (C) A representative of the United States
11 Secret Service appointed by the Director of
12 such Service.

13 (2) SUBCOMMITTEE APPOINTED LIAISONS.—
14 The Subcommittee may provide any other liaison to
15 represent any other regulator, including self-regu-
16 latory agencies or organizations that maintain sig-
17 nificant databases on persons engaged in the busi-
18 ness of conducting financial activities, designated in
19 the manner provided by the Subcommittee.

20 (d) VACANCY.—If, for any reason, the position of any
21 member of or liaison to the Subcommittee is not filled
22 within a reasonable period of time after being created or
23 becoming vacant, the President shall appoint an individual
24 to fill the position after consulting the agency or entity
25 to be represented by such member or liaison, and to the



1 extent possible, shall appoint such individual from a list
2 of possible representatives submitted by such agency or
3 entity.

4 (e) REORGANIZATION AUTHORITY.—

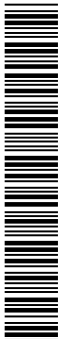
5 (1) IN GENERAL.—If the President disbands or
6 otherwise significantly modifies the Working Group
7 referred to in subsection (a), the President shall pro-
8 vide for the continuation of the Subcommittee's co-
9 ordination functions.

10 (2) MEMBER AND LIAISON WITHDRAWAL.—If
11 the President materially alters the structure or du-
12 ties of the Subcommittee, any member of or liaison
13 to the Subcommittee may withdraw from the Sub-
14 committee.

15 **SEC. 102. PURPOSES OF THE SUBCOMMITTEE.**

16 (a) IN GENERAL.—The purposes of the Sub-
17 committee are as follows:

18 (1) Coordinate access by the participants to
19 antifraud databases of various regulators, by facili-
20 tating the establishment, maintenance, and use of a
21 computer network of existing antifraud information
22 maintained by such regulators with respect to per-
23 sons engaged in the business of conducting financial
24 activities.



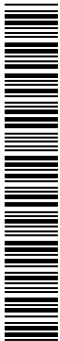
1 (2) Coordinate access by each participant to
2 such computer network in a manner that allows the
3 participant to review, at a minimal cost, existing in-
4 formation in the databases of other regulators, as a
5 part of licensure, change of control, or investigation,
6 concerning any person engaged in the business of
7 conducting financial activities.

8 (3) Coordinate information sharing, where ap-
9 propriate, among State, Federal, and foreign finan-
10 cial regulators, and law enforcement agencies, where
11 sufficient privacy and confidentiality safeguards
12 exist.

13 (4) Consider coordinating development of a
14 networked name-relationship index for persons en-
15 gaged in the business of conducting financial activi-
16 ties using information from the databases of regu-
17 lators, to the extent such information is available.

18 (5) Advise participants on coordinating their
19 antifraud databases with the computer network.

20 (6) Coordinate development of guidelines by
21 participants for ensuring appropriate privacy, con-
22 fidentiality, and security of shared information, in-
23 cluding tracking systems or testing audits, as appro-
24 priate.



1 (b) CRITERIA FOR NETWORK WITH RESPECT TO
2 ANY PERSON ENGAGED IN THE BUSINESS OF CON-
3 DUCTING FINANCIAL ACTIVITIES.—

4 (1) FINAL DISCIPLINARY AND FORMAL EN-
5 FORCEMENT ACTIONS.—Each financial regulator
6 that is represented by a member of the Sub-
7 committee under section 101(a) or by a financial li-
8 aison to the Subcommittee under section 101(b)
9 shall allow any participant access, through the net-
10 work, to any public final disciplinary or formal en-
11 forcement action by such regulator which is acces-
12 sible electronically relating to the conduct of persons
13 engaged in the business of conducting financial ac-
14 tivities that is fraudulent or dishonest, involves a
15 breach of trust, or relates to the failure to register
16 with the appropriate financial regulator as required
17 by law.

18 (2) SENSE OF THE CONGRESS ON OTHER IN-
19 FORMATION.—

20 (A) IN GENERAL.—It is the sense of the
21 Congress that the participants, to the extent
22 they consider practicable and appropriate,
23 should consider sharing through the network
24 other antifraud information relating to compa-
25 nies and other persons engaged in the business

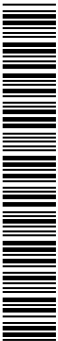


1 of conducting financial activities, but only
2 where the participant determines that there will
3 be adequate privacy and confidentiality safe-
4 guards governing access to and use of such in-
5 formation.

6 (B) INFORMATION WHICH SHOULD BE IN-
7 CLUDED.—It is the sense of the Congress that
8 the types of information to be shared by the
9 participants under paragraph (A) through the
10 network should include—

11 (i) information that is accessible by
12 the public relating to companies and other
13 persons engaged in conducting financial
14 activities;

15 (ii) information relating to companies
16 and other persons engaged in conducting
17 financial activities that a participant deter-
18 mines to be factual and substantiated and
19 does not include personally identifiable in-
20 formation on consumers, such as approved
21 licenses and applications, financial affili-
22 ations and name-relationships, aggregate
23 trend data, and financial reports generated
24 by or filed with a participant; and



1 (iii) information to be shared on a bi-
2 lateral or multilateral basis pursuant to a
3 memorandum of understanding negotiated
4 by the involved participants, except that
5 this title does not create any new author-
6 ization for such sharing.

7 (3) NOTIFICATION AND RESPONSE.—If a finan-
8 cial regulator takes an action against a person en-
9 gaged in the business of conducting financial activi-
10 ties on the basis of information described in para-
11 graph (1) or (2) that was received from another par-
12 ticipant through the network, such regulator shall
13 notify the person of—

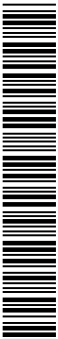
14 (A) the identity of the participant from
15 whom such information was received;

16 (B) the type of information that was re-
17 ceived from the other participant through the
18 network and would be relied on in taking the
19 adverse action; and

20 (C) the right to a reasonable opportunity
21 to respond to such information.

22 (4) USE OF CENTRALIZED DATABASES.—

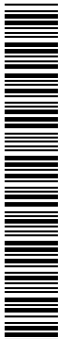
23 (A) IN GENERAL.—A member or financial
24 liaison shall be deemed to have met the require-
25 ments of paragraph (1) if the Subcommittee de-



1 termines that the participants have access to a
2 centralized database that contains information
3 on public final disciplinary or formal enforce-
4 ment actions similar to that described in para-
5 graph (1) or if the member or liaison makes the
6 information described in paragraph (1) avail-
7 able to the public over the Internet.

8 (B) FACTORS FOR DETERMINATION.—The
9 Subcommittee shall make the determination
10 under subparagraph (A) on an ongoing basis,
11 considering both short-term costs and techno-
12 logical limitations, as well as the need for long-
13 term comprehensive coverage, and other appro-
14 priate factors.

15 (C) STATE SUPERVISORS.—It is the sense
16 of the Congress that the National Association
17 of Insurance Commissioners, the Conference of
18 State Bank Supervisors, the National Associa-
19 tion of State Credit Union Supervisors, and the
20 North American Securities Administrators As-
21 sociation should develop model guidelines for
22 their respective regulated financial industries,
23 where appropriate, to promote uniform stand-
24 ards for sharing information with the network
25 under this section.



1 (c) FINANCIAL REGULATOR CONTROL OF ACCESS.—

2 (1) IN GENERAL.—Except as provided in para-
3 graph (4), each participant that allows access to its
4 databases or information by other participants
5 through the network may establish parameters for
6 controlling or limiting such access, including the reg-
7 ulation of—

8 (A) the type or category of information
9 that may be accessed by other participants and
10 the extent to which any such type or category
11 of information may be accessed;

12 (B) the participants that may have access
13 to the database or any specific type or category
14 of information in the database (whether for rea-
15 sons of cost reimbursement, data security, effi-
16 ciency, or otherwise); and

17 (C) the disclosure by any other participant
18 of any type or category of information that may
19 be accessed by the participant.

20 (2) PROCEDURES.—Any action by a participant
21 under paragraph (1) may be established by regula-
22 tions, orders, or guidelines or on a case-by-case
23 basis.

24 (3) DISCLAIMER.—



1 (A) IN GENERAL.—Each participant shall
2 ensure that any transfer of information under
3 this section, other than information described in
4 subsection (b)(1), from such participant to an-
5 other participant be subject to a disclaimer that
6 the information accessed may be unsubstan-
7 tiated and may not be relied on as the basis for
8 denying any application or license.

9 (B) SUBCOMMITTEE FLEXIBILITY.—The
10 Subcommittee may prescribe such guidelines as
11 the Subcommittee determines to be appropriate
12 governing the location, wording, and frequency
13 of disclaimers under this paragraph and the
14 manner in which any such disclaimer shall be
15 made.

16 (4) FINAL DISCIPLINARY AND FORMAL EN-
17 FORCEMENT ACTIONS NOT SUBJECT TO LIMITA-
18 TION.—This subsection, and standards or proce-
19 dures adopted by any participant under this sub-
20 section, shall not apply with respect to information
21 described in subsection (b)(1).

22 (5) NO EFFECT ON PUBLIC OR COMPANY AC-
23 CESS.—No provision of this section shall replace, su-
24 persede, or otherwise affect access to any databases
25 maintained by any Federal or State regulator, or



1 any entity representing any such regulator, which
2 are accessible by the public or persons engaged in
3 the business of conducting financial activities.

4 (d) ELIGIBILITY REQUIREMENTS FOR STATE SECU-
5 RITIES ADMINISTRATORS.—

6 (1) IN GENERAL.—No State securities adminis-
7 trator shall be eligible to be a participant and access
8 the network unless—

9 (A) such State securities administrator
10 participates in a centralized database for
11 broker-dealers, broker-dealer agents, investment
12 advisers, and investment advisor representa-
13 tives, registered or required to be registered, as
14 designated by the North American Securities
15 Administrators Association; and

16 (B) such State securities administrator re-
17 quires the broker-dealer, broker-dealer agent,
18 investment adviser, or investment adviser rep-
19 resentative, currently registered or required to
20 be registered, to file any application, amend-
21 ment to an application, or a renewal of an ap-
22 plication through the centralized registration
23 database.

24 (2) TIME DELAY FOR PARTICIPATION IN DATA-
25 BASES.—The provisions of paragraph (1) shall not



1 become effective until 3 years after the date of en-
2 actment of this Act.

3 (e) ELIGIBILITY REQUIREMENTS FOR STATE INSUR-
4 ANCE COMMISSIONERS.—

5 (1) PARTICIPATION IN DATABASES.—No State
6 insurance commissioner shall be eligible to access
7 the network unless such commissioner participates
8 with other State insurance commissioners—

9 (A) in a centralized database addressing
10 disciplinary or enforcement actions taken
11 against persons engaged in the business of in-
12 surance, such as the Regulatory Information
13 Retrieval System maintained by the National
14 Association of Insurance Commissioners or any
15 network or database designated by such Asso-
16 ciation as a successor to such System; and

17 (B) in centralized databases addressing,
18 with respect to persons engaged in the business
19 of insurance—

20 (i) corporate and other business affili-
21 ations or relationships, such as the Pro-
22 ducer Database maintained by the Na-
23 tional Association of Insurance Commis-
24 sioners or any network or database des-



1 ignated by such Association as a successor
2 to such Database; and

3 (ii) consumer complaints, such as the
4 Complaints Database maintained by the
5 National Association of Insurance Commis-
6 sioners or any network or database des-
7 ignated by such Association as a successor
8 to such Database.

9 (2) TIME DELAY FOR PARTICIPATION IN DATA-
10 BASES.—The provisions of subparagraph (1)(B) of
11 this section shall not become effective until 3 years
12 after the date of enactment of this Act.

13 (3) ACCREDITATION.—No State insurance com-
14 missioner shall be eligible to access the network un-
15 less the State insurance department which such
16 commissioner represents meets 1 of the following ac-
17 creditation requirements at the time of access to the
18 network:

19 (A) Is accredited by the National Associa-
20 tion of Insurance Commissioners.

21 (B) Has an application for accredited sta-
22 tus pending with the National Association of
23 Insurance Commissioners.

24 (C) Has a determination by the Sub-
25 committee in effect that such State insurance



1 department meets or exceeds the standards es-
2 tablished by the National Association of Insur-
3 ance Commissioners for accreditation.

4 (f) SUBCOMMITTEE STANDARDS.—The Sub-
5 committee shall consider developing guidelines for partici-
6 pants on—

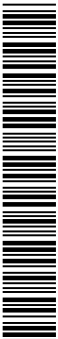
7 (1) how to denote which types of information
8 are to receive different levels of confidentiality pro-
9 tection; and

10 (2) how entities or associations that act as
11 agents for financial regulators should denote such
12 agency status when acting in that capacity.

13 (g) REPORTING AND FEASIBILITY REQUIREMENTS
14 AND REVIEW OF OPTIMAL NETWORKING METHODS.—

15 (1) REPORT.—Before the end of the 180-day
16 period beginning on the date this subtitle takes ef-
17 fect in accordance with section 101(a), and again be-
18 fore the end of the 2-year period beginning on such
19 date, the Subcommittee shall submit a report to the
20 Congress regarding the methods the regulators plan
21 to use to network information, and a description of
22 any impediments to (or recommended additional leg-
23 islation for) facilitating the appropriate sharing of
24 such information.

25 (2) TIMEFRAME FOR NETWORKING.—



1 (A) IN GENERAL.—The networking of in-
2 formation required under subsection (a)(1) shall
3 be established before the end of the 2-year pe-
4 riod referred to in paragraph (1), unless the
5 Subcommittee determines, in conjunction with
6 the liaisons, that such a network cannot be es-
7 tablished within such time in a practicable and
8 cost-effective manner.

9 (B) REPORTS ON EFFORTS IF TIMEFRAME IS
10 NOT MET.—If the Subcommittee makes such a de-
11 termination, the Subcommittee shall report annually
12 to the Congress on its efforts to coordinate the shar-
13 ing of appropriate information among the regulators
14 until the networking requirements are fulfilled.

15 (h) OTHER SHARING ARRANGEMENTS NOT AF-
16 FECTED.—No provision of this section shall be construed
17 as limiting or otherwise affecting the authority of a finan-
18 cial regulator or other member or liaison of the Sub-
19 committee to provide any person, including another partic-
20 ipant, access to any information in accordance with any
21 provision of law other than this Act.

22 (i) NO NEW DATABASES OR EXPENDITURES MAN-
23 DATED.—In implementing this Act, the Subcommittee
24 shall not have any authority to require a member or liaison
25 to create a new database or otherwise incur significant



1 costs in modifying existing databases for the networking
2 of information.

3 **SEC. 103. CHAIRPERSON; TERM OF CHAIRPERSON; MEET-**
4 **INGS; OFFICERS AND STAFF.**

5 (a) CHAIRPERSON.—

6 (1) SELECTION.—The members of the Sub-
7 committee shall select the Chairperson from among
8 the members of the Subcommittee.

9 (2) TERM.—The term of the Chairperson shall
10 be 2 years.

11 (b) MEETINGS.—The Subcommittee shall meet at the
12 call of the Chairperson or a majority of the members when
13 there is business to be conducted.

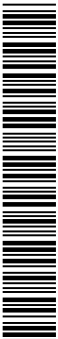
14 (c) QUORUM.—A majority of members of the Sub-
15 committee shall constitute a quorum.

16 (d) MAJORITY VOTE.—Decisions of the Sub-
17 committee shall be made by the vote of a majority of the
18 members of the Subcommittee.

19 (e) OFFICERS AND STAFF.—The Chairperson of the
20 Subcommittee may appoint such officers and staff as may
21 be necessary to carry out the purposes of the Sub-
22 committee.

23 **SEC. 104. NONAGENCY STATUS.**

24 The Subcommittee shall not be considered an advi-
25 sory committee for purposes of the Federal Advisory Com-



1 mittee Act or as an agency for purposes of subchapter II
2 of chapter 5 of title 5, United States Code.

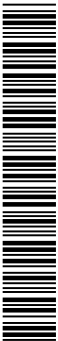
3 **SEC. 105. POWERS OF THE SUBCOMMITTEE.**

4 (a) IN GENERAL.—The Subcommittee shall have
5 such powers as are necessary to carry out the purposes
6 of the Subcommittee under this title.

7 (b) INFORMATION TO FACILITATE COORDINATION.—
8 Each agency and entity represented by a member or liai-
9 son shall, to the extent permitted by law, provide the Sub-
10 committee with information concerning the types of data-
11 bases maintained by the agency or entity to assist the Sub-
12 committee in carrying out the purposes described in sec-
13 tion 102(a).

14 (c) SERVICE OF MEMBERS AND LIAISONS.—Members
15 of and liaisons to the Subcommittee shall serve without
16 additional compensation for their work on the Sub-
17 committee.

18 (d) ADMINISTRATIVE AND TECHNICAL SUPPORT.—
19 The Subcommittee may request that any agency or entity
20 represented by a member or liaison provide the Sub-
21 committee with any administrative, technical, or other
22 support service that the Subcommittee determines is nec-
23 essary or appropriate for it to carry out the purposes de-
24 scribed in section 102(a).



1 **SEC. 106. AGREEMENT ON COST STRUCTURE.**

2 (a) IN GENERAL.—The Subcommittee shall deter-
3 mine, after consultation with the affected participants or
4 their representatives, the means for providing for any
5 costs the Subcommittee may incur in carrying out the pur-
6 poses of this title.

7 (b) CONSULTATION AND AGREEMENT ON FEES AND
8 CONTRIBUTIONS.—Notwithstanding any other provision
9 of this title, the Subcommittee may not impose any fee
10 or assessment on, or apportion any contribution against,
11 any member or liaison under this section unless—

12 (1) the Subcommittee consults with such mem-
13 ber or liaison; and

14 (2) the member or liaison consents to the
15 amounts, or on a schedule, of such fees, assess-
16 ments, or contributions.

17 (c) REIMBURSEMENT OF PARTICIPANT COSTS.—Be-
18 fore allowing access by the Subcommittee or a participant
19 to any information described in section 102, other than
20 access described in subsection (b)(1) of such section, a
21 member or liaison may request the reimbursement of rea-
22 sonable costs for providing such access.

23 **Subtitle C—Regulatory Provisions**

24 **SEC. 111. AGENCY SUPERVISORY PRIVILEGE.**

25 (a) DEFINITIONS.—For purposes of this section, the
26 following definitions shall apply:



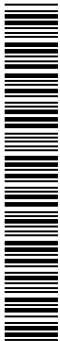
1 (1) SUPERVISORY PROCESS.—The term “super-
2 visory process” means any activity engaged in by a
3 financial regulator to carry out the official respon-
4 sibilities of the financial regulator with regard to the
5 regulation or supervision of persons engaged in the
6 business of conducting financial activities, including
7 examinations, inspections, visitations, investigations,
8 consumer complaints, or any other regulatory or su-
9 pervisory activities.

10 (2) CONFIDENTIAL SUPERVISORY INFORMA-
11 TION.—Subject to paragraph (3), the term “con-
12 fidential supervisory information” means any of the
13 following information which is treated as, or consid-
14 ered to be, confidential information by a financial
15 regulator, regardless of the form or format in which
16 the information is created, conveyed, or maintained:

17 (A) Any report of examination, inspection,
18 visitation, or investigation, and information pre-
19 pared or collected by the financial regulator in
20 connection with the supervisory process,
21 including—

22 (i) any file, work paper, or similar in-
23 formation;

24 (ii) any correspondence, communica-
25 tion, or information exchanged, between a



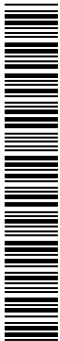
1 financial regulator and a person engaged
2 in the business of conducting financial ac-
3 tivities in connection with the supervisory
4 process; and

5 (iii) any information, including any
6 report, created by or on behalf of a person
7 engaged in the business of conducting fi-
8 nancial activities that is required by, or is
9 prepared at the request of, a financial reg-
10 ulator in connection with the supervisory
11 process.

12 (B) Any record to the extent it contains in-
13 formation derived from any report, correspond-
14 ence, communication or other information de-
15 scribed in subparagraph (A).

16 (C) Any consumer complaints filed with
17 the financial regulator by a consumer with re-
18 spect to a person engaged in the business of
19 conducting financial activities that have been
20 identified by the financial regulator as requiring
21 confidential treatment to protect the integrity
22 of an investigation or the safety of an indi-
23 vidual.

24 (3) EXCLUSIONS.—The term “confidential su-
25 pervisory information” shall not include—



1 (A) any book, record, or other information,
2 in the possession of, or maintained on behalf of,
3 the person engaged in the business of con-
4 ducting financial activities that—

5 (i) is not a report required by, or pre-
6 pared at the request of, a financial regu-
7 lator; and

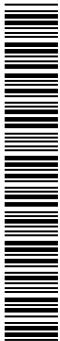
8 (ii) is not, and is not derived from,
9 confidential supervisory information that
10 was created or prepared by a financial reg-
11 ulator; or

12 (B) any information required to be made
13 publicly available by—

14 (i) any applicable Federal law or regu-
15 lation; or

16 (ii) in the case of confidential super-
17 visory information created by a State fi-
18 nancial regulator or requested from a per-
19 son engaged in the business of conducting
20 financial activities by a State financial reg-
21 ulator, any applicable State law or regula-
22 tion that specifically refers to such type of
23 information.

24 (b) FINANCIAL REGULATOR SUPERVISORY PRIVI-
25 LEGE.—



1 (1) PRIVILEGE ESTABLISHED.—

2 (A) IN GENERAL.—All confidential super-
3 visory information shall be privileged from dis-
4 closure to any person except as provided in this
5 section.

6 (B) PROHIBITION ON UNAUTHORIZED DIS-
7 CLOSURES.—No person in possession of con-
8 fidential supervisory information may disclose
9 such information, in whole or in part, without
10 the prior authorization of the financial regu-
11 lator that created the information, or requested
12 the information from a person engaged in the
13 business of conducting financial activities, ex-
14 cept for a disclosure made in published statis-
15 tical material that does not disclose, either di-
16 rectly or when used in conjunction with publicly
17 available information, the affairs of any person
18 or other personally identifiable information.

19 (C) AGENCY WAIVER.—The financial regu-
20 lator that created confidential supervisory infor-
21 mation, or requested confidential supervisory
22 information from a person engaged in the busi-
23 ness of conducting financial activities may
24 waive, in whole or in part, in the discretion of
25 the regulator, any privilege established under



1 this paragraph with respect to such informa-
2 tion.

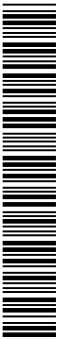
3 (2) EXCEPTIONS.—

4 (A) ACCESS BY GOVERNMENTAL BODIES.—

5 (i) CONGRESS AND GENERAL AC-
6 COUNTING OFFICE.—No provision of para-
7 graph (1) shall be construed as preventing
8 access to confidential supervisory informa-
9 tion by duly authorized committees of the
10 Congress or the Comptroller General of the
11 United States.

12 (ii) FINANCIAL REGULATOR OVER-
13 SIGHT.—No financial regulator which is
14 described in subparagraph (N), (O), or (P)
15 of section 115(3) and is subject to the
16 oversight of a Federal financial regulator
17 may assert the privilege described in para-
18 graph (1) to prevent access to confidential
19 supervisory information by such Federal fi-
20 nancial regulator.

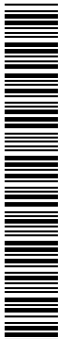
21 (B) PRIVILEGE NOT WAIVED.—If a finan-
22 cial regulator provides access to confidential su-
23 pervisory information to the Congress, the
24 Comptroller General, or another financial regu-
25 lator, such action shall not affect the ability of



1 the financial regulator to assert any privilege
2 associated with such information against any
3 other person.

4 (c) TREATMENT OF FOREIGN SUPERVISORY INFOR-
5 MATION.—In any proceeding before a Federal or State
6 court of the United States, in which a person seeks to
7 compel production or disclosure by a financial regulator
8 of information or a document prepared or collected by a
9 foreign financial regulator that would, had the information
10 or document been prepared or collected by a financial reg-
11 ulator, be confidential supervisory information for pur-
12 poses of this section, the information or document shall
13 be privileged to the same extent that the information and
14 documents of financial regulators are privileged under this
15 title.

16 (d) OTHER PRIVILEGES NOT WAIVED BY DISCLO-
17 SURE TO FINANCIAL REGULATOR.—The submission by a
18 person engaged in the business of conducting financial ac-
19 tivities of any information to a financial regulator or a
20 foreign financial regulator in connection with the super-
21 visory process of such financial regulator or foreign finan-
22 cial regulator shall not waive, destroy, or otherwise affect
23 any privilege such person may claim with respect to such
24 information under Federal or State law as to a party other



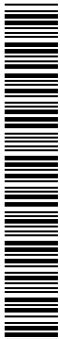
1 than such financial regulator or foreign financial regu-
2 lator.

3 (e) DISCOVERY AND DISCLOSURE OF INFORMA-
4 TION.—

5 (1) INFORMATION AVAILABLE ONLY FROM FI-
6 NANCIAL REGULATOR.—

7 (A) IN GENERAL.—No person (other than
8 the financial regulator that created the informa-
9 tion or requested the information from a person
10 engaged in the business of conducting financial
11 activities) may disclose, in whole or in part, any
12 confidential supervisory information to any per-
13 son who seeks such information through sub-
14 poena, discovery procedures, or otherwise.

15 (B) PROCEDURE FOR REQUESTS SUB-
16 MITTED TO FINANCIAL REGULATOR.—Any re-
17 quest for discovery or disclosure of confidential
18 supervisory information shall be made to the fi-
19 nancial regulator that created the information,
20 or requested the information from a person en-
21 gaged in the business of conducting financial
22 activities, which shall determine within a rea-
23 sonable time period whether to disclose such in-
24 formation pursuant to procedures and criteria
25 established by the financial regulator.



1 (C) NOTIFICATION.—

2 (i) IN GENERAL.—Before any finan-
3 cial regulator releases information that was
4 requested from a person engaged in the
5 business of conducting financial activities
6 to a person under subparagraph (B), no-
7 tice and a reasonable time for comment
8 shall be provided to the person from whom
9 such information was requested unless
10 such information—

11 (I) is being provided to another
12 financial regulator, an agency or enti-
13 ty represented by a liaison to the Sub-
14 committee, or a Federal, State, or for-
15 eign government (or any agency or in-
16 strumentality of any such government
17 acting in any such capacity);

18 (II) is being sought for use in a
19 criminal proceeding or investigation,
20 or a regulatory, supervisory, enforce-
21 ment, or disciplinary administrative
22 proceeding, civil action, or investiga-
23 tion; or



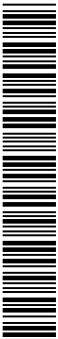
1 (III) was originally created, or
2 included in information created, by
3 the financial regulator.

4 (ii) PROCEDURES AND REQUIRE-
5 MENTS.—A financial regulator may pre-
6 scribe regulations, or issue orders, guide-
7 lines, or procedures, governing the notice
8 and time period required by clause (i).

9 (2) FEDERAL COURT JURISDICTION OVER DIS-
10 PUTES.—

11 (A) REMOVAL AUTHORITY.—In any action
12 or proceeding in which a party seeks to compel
13 disclosure of confidential supervisory informa-
14 tion, a financial regulator may, in its sole dis-
15 cretion, elect to remove the matter relating to
16 the disclosure issue to Federal court, and, if the
17 action is so removed, the appropriate Federal
18 court shall have exclusive jurisdiction over such
19 matter.

20 (B) JUDICIAL REVIEW.—Judicial review of
21 the final action of a financial regulator with re-
22 gard to the disposition of a request for con-
23 fidential supervisory information shall be before
24 a district court of the United States of com-



1 petent jurisdiction, subject to chapter 7 of part
2 I of title 5, United States Code.

3 (f) AUTHORITY TO INTERVENE.—In the case of any
4 action or proceeding to compel compliance with a sub-
5 poena, order, discovery request, or other judicial or admin-
6 istrative process with respect to any confidential super-
7 visory information of a financial regulator concerning any
8 person engaged in the business of conducting financial ac-
9 tivities, the financial regulator may intervene in such ac-
10 tion or proceeding, and such person may intervene with
11 such regulator, for the purpose of—

12 (1) enforcing the limitations established in
13 paragraph (1) of subsections (b) and (e);

14 (2) seeking the withdrawal of any compulsory
15 process with respect to such information; and

16 (3) registering appropriate objections with re-
17 spect to the action or proceeding to the extent the
18 action or proceeding relates to or involves such infor-
19 mation.

20 (g) RIGHT TO APPEAL.—Any court order that com-
21 pels production of confidential supervisory information
22 may be immediately appealed by the financial regulator
23 and the order compelling production shall be automatically
24 stayed, pending the outcome of such appeal.

25 (h) REGULATIONS.—



1 (1) AUTHORITY TO PRESCRIBE.—Each financial
2 regulator may prescribe such regulations as the reg-
3 ulator considers to be appropriate, after consultation
4 with the other financial regulators (to the extent the
5 prescribing financial regulator considers appropriate
6 and feasible), to carry out the purposes of this sec-
7 tion.

8 (2) AUTHORITY TO REQUIRE NOTICE.—Any
9 regulations prescribed by a financial regulator under
10 paragraph (1) may require any person in possession
11 of confidential supervisory information to notify the
12 financial regulator whenever the person is served
13 with a subpoena, order, discovery request, or other
14 judicial or administrative process requiring the per-
15 sonal attendance of such person as a witness or re-
16 quiring the production of such information in any
17 proceeding.

18 (i) ABILITY TO PARTIALLY WAIVE PRIVILEGE
19 WHERE NO OTHER PRIVILEGE APPLIES.—A financial
20 regulator may, to the extent permitted by applicable law
21 governing the disclosure of information by the regulator,
22 authorize a waiver of a privilege under this section to allow
23 access by a person to confidential supervisory information
24 created by such regulator (or requested by such regulator



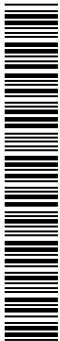
1 from any person engaged in the business of conducting
2 financial activities), except that—

3 (1) the regulator may place appropriate limits
4 on the use and disclosure of the information shared,
5 and may continue to assert the privilege with respect
6 to any other person that seeks access to the infor-
7 mation; and

8 (2) such waiver shall not affect any other privi-
9 lege or confidentiality protection that any party may
10 assert against any party other than such financial
11 regulator.

12 (j) SHARING OF REPORTS.—

13 (1) IN GENERAL.—No provision of this section
14 shall be construed as preventing a person engaged in
15 the business of conducting financial activities from
16 providing a report (other than anything described in
17 paragraph (3)) that is required by, or prepared at
18 the request of, a financial regulator (the originating
19 financial regulator) to another financial regulator
20 that has the authority to obtain the information
21 from the person under any other provision of law, to
22 the extent the report does not include confidential
23 supervisory information created by the originating fi-
24 nancial regulator.



1 (2) PRIVILEGE PRESERVED.—If a person pro-
2 vides a report referred to in paragraph (1) to a fi-
3 nancial regulator other than the originating financial
4 regulator, such action shall not affect the ability of
5 the originating financial regulator to assert any
6 privilege that such financial regulator may claim
7 with respect to the report against any person that
8 is not a financial regulator.

9 (3) INFORMATION EXCLUDED.—Paragraph (1)
10 shall not apply to any confidential supervisory infor-
11 mation contained in a report that was created by the
12 originating financial regulator or that was derived
13 from confidential supervisory information that was
14 created by the originating financial regulator.

15 (k) NO WAIVER OF ANY PRIVILEGE OF ANY OTHER
16 PARTY.—No provision of this Act shall provide a financial
17 regulator with any new authority to disclose information
18 in contravention of applicable law governing disclosure of
19 information or waiver of privilege by the financial regu-
20 lator.

21 **SEC. 112. CONFIDENTIALITY OF INFORMATION.**

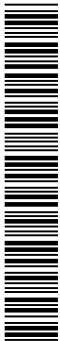
22 (a) IN GENERAL.—

23 (1) FINANCIAL REGULATORS.—Except as other-
24 wise provided in this section or section 111, any re-
25 quirement under Federal or State law regarding the



1 privacy or confidentiality of any information or ma-
2 terial in the possession of any participant to the
3 Subcommittee, and any privilege arising under Fed-
4 eral or State law (including the rules of any Federal
5 or State court) with respect to such information or
6 material, shall continue to apply to such information
7 or material after the information or material has
8 been disclosed to another participant or the Sub-
9 committee through the network.

10 (2) CERTAIN INSURANCE INFORMATION.—Ex-
11 cept as otherwise provided in this section or section
12 111, any requirement under Federal or State law re-
13 garding the privacy or confidentiality of any infor-
14 mation or material in the possession of the National
15 Association of Insurance Commissioners, or any
16 member or affiliate of the Association, and any
17 privilege arising under Federal or State law (includ-
18 ing the rules of any Federal or State court) with re-
19 spect to such information or material, shall continue
20 to apply to such information or material after the in-
21 formation has been disclosed to the Association, or
22 any other member or affiliate of the Association,
23 through the computer databases maintained by the
24 Association.



1 (3) NONAPPLICABILITY OF CERTAIN REQUIRE-
2 MENTS.—Information or material that is subject to
3 a privilege or confidentiality under any other para-
4 graph of this subsection shall not be subject to—

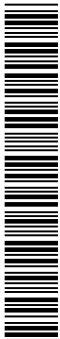
5 (A) disclosure under any Federal or State
6 law governing the disclosure to the public of in-
7 formation held by an officer or an agency of the
8 Federal Government or the respective State; or

9 (B) subpoena or discovery, or admission
10 into evidence, in any private civil action or ad-
11 ministrative process,

12 unless with respect to any privilege held by a partici-
13 pant with respect to such information or material,
14 the participant waives, in whole or in part, in the
15 discretion of the participant, such privilege.

16 (b) PREEMPTION OF STATE LAW.—Any State law,
17 including any State open record law, relating to the disclo-
18 sure of confidential supervisory information or any infor-
19 mation or material to which subsection (a) applies that
20 is inconsistent with any provision of section 111 or sub-
21 section (a) of this section shall be superseded by the re-
22 quirements of such provision to the extent State law pro-
23 vides less confidentiality or a weaker privilege.

24 (c) DUTY OF FINANCIAL REGULATOR TO MAINTAIN
25 CONFIDENTIALITY.—A participant may not receive,



1 download, copy, or otherwise maintain any information or
2 material from any other member of or liaison to the Sub-
3 committee through the network unless—

4 (1) the participant maintains a system that en-
5 ables the participant to maintain full compliance
6 with the requirements of sections 102 and 111 and
7 this section, with respect to such information and
8 material; and

9 (2) if and to the extent required by the guide-
10 lines established under section 102(a), a record is
11 maintained of each attempt to access such informa-
12 tion and material, and the identity of the person
13 making the attempt, in order to prevent evasions of
14 such requirements.

15 **SEC. 113. LIABILITY PROVISIONS.**

16 (a) NO LIABILITY FOR GOOD FAITH DISCLO-
17 SURES.—The Subcommittee and any financial regulator,
18 and any officer or employee of the Subcommittee or any
19 financial regulator, shall not be subject to any civil action
20 or proceeding for monetary damages by reason of the good
21 faith action or omission of any officer or employee, while
22 acting within the scope of office or employment, relating
23 to collecting, furnishing, or disseminating regulatory infor-
24 mation concerning persons engaged in the business of con-
25 ducting financial activities, to or from the Subcommittee



1 or another financial regulator, whether directly or through
2 the network.

3 (b) CRIMINAL LIABILITY FOR INTENTIONAL UNLAW-
4 FUL DISCLOSURES.—Whoever willfully discloses to any
5 person any information or material maintained by a par-
6 ticipant concerning any person engaged in the business of
7 conducting financial activities knowing the disclosure to
8 be in violation of any provision of this title requiring the
9 confidentiality of such information or material, or estab-
10 lishing a privilege from disclosure for any participant
11 which has not been waived by the participant, shall be
12 fined in accordance with title 18, United States Code, or
13 imprisoned not more than 5 years, or both.

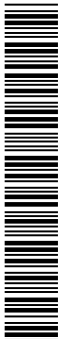
14 (c) FULL, CONTINUED PROTECTION UNDER THE SO-
15 CALLED “FEDERAL TORT CLAIMS ACT”.—No provision
16 of this Act shall be construed as reducing or limiting any
17 protection provided for any Federal agency, or any officer
18 or employee of any Federal agency, under section 2679
19 of title 28, United States Code.

20 **SEC. 114. AUTHORIZATION FOR IDENTIFICATION AND**
21 **CRIMINAL BACKGROUND CHECK.**

22 (a) SHARING OF CRIMINAL RECORDS.—

23 (1) ATTORNEY GENERAL AUTHORIZATION.—

24 Upon receiving a request from a financial regulator,



1 or the Subcommittee acting on behalf of any such
2 regulator, the Attorney General shall—

3 (A) search the records of the Criminal Jus-
4 tice Information Services Division of the Fed-
5 eral Bureau of Investigation, and any other
6 similar database over which the Attorney Gen-
7 eral has authority and deems appropriate, for
8 any criminal background records (including
9 wanted persons information) corresponding to
10 the identification information provided under
11 subsection (b); and

12 (B) either—

13 (i) shall provide any such records to
14 any authorized agent of the financial regu-
15 lator, which shall provide the relevant in-
16 formation to such regulator; or

17 (ii) may provide such records directly
18 to the financial regulator if the Attorney
19 General limits such provision of records to
20 relevant information.

21 (2) AUTHORIZED AGENT DEFINED.—For pur-
22 poses of this section, the term “authorized agent”
23 means—

24 (A) any agent which has been recognized
25 by the Attorney General for such purpose and



1 authorized by at least 3 other financial regu-
2 lators to receive such records and perform the
3 information sharing requirements of paragraph
4 (3); and

5 (B) the State attorney general for the
6 State in which the regulator resides.

7 (3) INFORMATION SHARED.—

8 (A) IN GENERAL.—The authorized agent
9 shall provide to the requesting financial regu-
10 lator only any records that are relevant infor-
11 mation.

12 (B) RELEVANT INFORMATION DEFINED.—
13 For purposes of this section, the term “relevant
14 information” means any of the following
15 records:

16 (i) All felony convictions.

17 (ii) All misdemeanor convictions
18 involving—

19 (I) violation of a law involving fi-
20 nancial activities;

21 (II) dishonesty or breach of
22 trust, within the meaning of section
23 1033 of title 18, United States Code,
24 including taking, withholding, mis-



1 appropriating, or converting money or
2 property;

3 (III) failure to comply with child
4 support obligations;

5 (IV) failure to pay taxes; and

6 (V) domestic violence, child
7 abuse, or a crime of violence.

8 (C) CRIME OF VIOLENCE DEFINED.—For
9 purposes of subparagraph (B)(ii)(V), the term
10 “crime of violence” means a burglary of a
11 dwelling and a criminal offense that has as an
12 element, the use or attempted use of physical
13 force, or threat of great bodily harm, or the
14 use, attempted use, or threatened use of a
15 deadly weapon, against an individual, including
16 committing or attempting to commit murder,
17 manslaughter, kidnapping, aggravated assault,
18 forcible sex offenses, robbery, arson, extortion,
19 and extortionate extension of credit.

20 (4) STATE UNIFORM LAWS OR RECIPROCITY RE-
21 QUIREMENT.—The Attorney General may not pro-
22 vide any records under this subsection to a State in-
23 surance regulator, or agent of such regulator, if such
24 regulator does not have in effect uniform or reci-
25 procuity laws and regulations governing the licensure



1 of individuals and entities authorized to sell and so-
2 licit the purchase of insurance within the State as
3 set forth in section 321 of P.L. 106-102, as deter-
4 mined by the Attorney General, with the advice and
5 counsel of the National Association of Insurance
6 Commissioners.

7 (b) FORM OF REQUEST.—A request under subsection
8 (a) shall include a copy of any necessary identification in-
9 formation required by the Attorney General, such as the
10 name and fingerprints of the person about whom the
11 record is requested and a statement signed by the person
12 acknowledging that the regulator (or such regulator's des-
13 ignated representative under subsection (i)(1)) may re-
14 quest the search.

15 (c) LIMITATION ON PERMISSIBLE USES OF INFORMA-
16 TION.—Information obtained under this section may—

17 (1) be used only for regulatory or law enforce-
18 ment purposes; and

19 (2) be disclosed—

20 (A) only to other financial regulators or
21 Federal or State government agencies; and

22 (B) only if the recipient agrees to—

23 (i) maintain the confidentiality of
24 such information; and



1 (ii) limit the use of such information
2 to appropriate regulatory and law enforce-
3 ment purposes.

4 (d) PENALTY FOR IMPROPER USE.—

5 (1) IN GENERAL.—Whoever uses any informa-
6 tion obtained under this section knowingly and will-
7 fully for an unauthorized purpose shall be fined
8 under title 18, United States Code, imprisoned for
9 not more than 2 years, or both.

10 (2) ADDITIONAL PENALTIES AND WAIVERS.—

11 (A) IN GENERAL.—Any authorized agent
12 who violates paragraph (1), or any regulator
13 who directs such agent to violate such para-
14 graph, shall be barred from engaging in or reg-
15 ulating any activities related to the business of
16 insurance.

17 (B) WAIVER AUTHORIZED.—The Attorney
18 General, in the discretion of the Attorney Gen-
19 eral, may waive the bar in subparagraph (A), as
20 appropriate.

21 (e) RELIANCE ON INFORMATION.—A financial regu-
22 lator (or such regulator's designated agent under sub-
23 section (g)(1)) who reasonably relies on information pro-
24 vided under this section shall not be liable in any action



1 for using information as permitted under this section in
2 good faith.

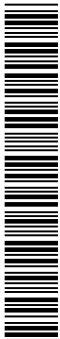
3 (f) CLARIFICATION OF SECTION 1033.—With respect
4 to any action brought under section 1033(e)(1)(B) of title
5 18, United States Code, no person engaged in the business
6 of conducting financial activities shall be subject to any
7 penalty resulting from such section if the individual who
8 the person permitted to engage in the business of insur-
9 ance is licensed, or approved (as part of an application
10 or otherwise), by a financial regulator that performs crimi-
11 nal background checks under this section, unless such per-
12 son knows, or has reason to know, at any time, that the
13 individual is in violation of section 1033(e)(1)(A) of such
14 title.

15 (g) DESIGNATION OF AGENT.—

16 (1) IN GENERAL.—A financial regulator may
17 designate an agent for facilitating requests and ex-
18 changes of information under this section between
19 the financial regulator and the Subcommittee.

20 (2) SENSE OF CONGRESS REGARDING AGENTS
21 OF INSURANCE REGULATORS.—It is the sense of the
22 Congress that—

23 (A) each State insurance commissioner
24 should designate the National Association of In-



1 surance Commissioners as an agent under para-
2 graph (1);

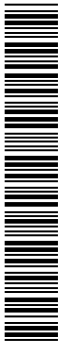
3 (B) persons engaged in the business of in-
4 surance should be able to use the National As-
5 sociation of Insurance Commissioners to facili-
6 tate obtaining fingerprints and supplying identi-
7 fication information for use in background
8 checks under this section on a multijuris-
9 dictional basis;

10 (C) the National Association of Insurance
11 Commissioners should maintain a database to
12 obtain records under this section for use by
13 State insurance commissioners to reduce mul-
14 tiple or duplicative fingerprinting requirements
15 and criminal background checks; and

16 (D) other financial regulators that require
17 fingerprints and criminal background checks
18 should similarly coordinate efforts to reduce du-
19 plication for persons engaged in the business of
20 conducting multiple types of financial activities.

21 (h) FEES.—The Attorney General and the Antifraud
22 Subcommittee may charge a reasonable fee for the provi-
23 sion of information under this section.

24 (i) RULE OF CONSTRUCTION.—This section shall
25 not—



1 (1) provide independent authorization for a fi-
2 nancial regulator to require fingerprinting as a part
3 of a licensure or other application;

4 (2) require a financial regulator to perform
5 criminal background checks under this section; or

6 (3) supersede or otherwise limit any other au-
7 thority that allows access to criminal background
8 records.

9 (j) REGULATIONS.—The Attorney General may pre-
10 scribe regulations to carry out this section.

11 **SEC. 115. DEFINITIONS.**

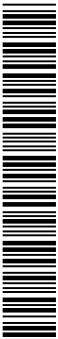
12 For purposes of this title, the following definitions
13 shall apply:

14 (1) FEDERAL BANKING AGENCY.—The term
15 “Federal banking agency” has the same meaning as
16 given in section 3(z) of the Federal Deposit Insur-
17 ance Act.

18 (2) FINANCIAL ACTIVITIES.—

19 (A) IN GENERAL.—The term “financial
20 activities”—

21 (i) means banking activities (including
22 the ownership of a bank), securities activi-
23 ties, insurance activities, or commodities
24 activities; and



1 (ii) includes all activities that are fi-
2 nancial in nature or are incidental to a fi-
3 nancial activity (as defined under section
4 4(k) of the Bank Holding Company Act of
5 1956).

6 (B) RULE OF CONSTRUCTION.—Subpara-
7 graph (A) shall not be construed as creating
8 any inference, including any negative inference,
9 concerning the types or extent of activities that
10 are appropriately recognized as activities that
11 are financial in nature, or are incidental to a fi-
12 nancial activity, for purposes of section 4 of the
13 Bank Holding Company Act of 1956.

14 (3) FINANCIAL REGULATOR.—The term “finan-
15 cial regulator” means—

16 (A) each Federal banking agency;

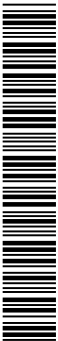
17 (B) the Securities and Exchange Commis-
18 sion;

19 (C) the Commodity Futures Trading Com-
20 mission;

21 (D) the National Credit Union Administra-
22 tion;

23 (E) the Farm Credit Administration;

24 (F) the Federal Housing Finance Board;



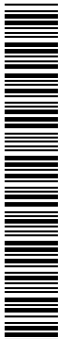
1 (G) the Federal Trade Commission, to the
2 extent the Commission has jurisdiction over fi-
3 nancial activities being conducted by a person
4 engaged in the business of conducting financial
5 activities;

6 (H) the Office of Federal Housing Enter-
7 prise Oversight of the Department of Housing
8 and Urban Development;

9 (I) any State bank supervisor (as defined
10 in section 3(r) of the Federal Deposit Insurance
11 Act), including the Conference of State Bank
12 Supervisors only to the extent such conference
13 is acting as an agent of, and is subject to the
14 oversight of, any such State bank supervisor;

15 (J) any State savings association super-
16 visor, including the American Council of State
17 Savings Supervisors only to the extent such
18 conference is acting as an agent of, and is sub-
19 ject to the oversight of, any such State savings
20 association supervisor;

21 (K) any State insurance commissioner, in-
22 cluding the National Association of Insurance
23 Commissioners only to the extent such associa-
24 tion is acting as the agent of, and is subject to



1 the oversight of, any such insurance commis-
2 sioner;

3 (L) any State securities administrator, in-
4 cluding the North American Securities Adminis-
5 trators Association only to the extent such asso-
6 ciation is acting as the agent of, and is subject
7 to the oversight of, any such securities adminis-
8 trator;

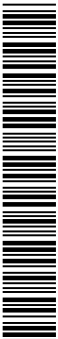
9 (M) any State credit union supervisor, in-
10 cluding the National Association of State Credit
11 Union Supervisors only to the extent such asso-
12 ciation is acting as the agent of, and is subject
13 to the oversight of, any such credit union super-
14 visor;

15 (N) the National Association of Securities
16 Dealers, only to the extent that—

17 (i) such association is acting in con-
18 nection with the financial services industry;
19 and

20 (ii) the association and the relevant
21 actions are subject to the oversight of the
22 Securities and Exchange Commission;

23 (O) the National Futures Association, only
24 to the extent that—

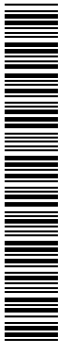


1 (i) such association is acting in con-
2 nection with the financial services industry;
3 and

4 (ii) the association and the relevant
5 actions are subject to the oversight of the
6 Commodity Futures Trading Commission
7 or the Securities and Exchange Commis-
8 sion; and

9 (P) any other self-regulatory organization
10 that engages in or coordinates regulatory and
11 supervisory activities, with respect to any per-
12 son engaged in the business of conducting fi-
13 nancial activities, and is subject to the oversight
14 of the Securities and Exchange Commission or
15 the Commodity Futures Trading Commission,
16 but only to the extent that the organization en-
17 gages in such activities and is subject to such
18 oversight.

19 (4) FOREIGN FINANCIAL REGULATOR.—The
20 term “foreign financial regulator” means any agen-
21 cy, entity, or body (including a self-regulatory orga-
22 nization) that is empowered by the laws of a foreign
23 country to supervise and regulate persons engaged
24 in the business of conducting financial activities, but



1 only to the extent of such supervisory and regulatory
2 activities.

3 (5) PARTICIPANT.—The term “participant”
4 means any regulator which is represented by a mem-
5 ber of, or a liaison to, the Subcommittee but only to
6 the extent the regulator provides or obtains access to
7 information through the network.

8 (6) PERSON.—The term “person” includes any
9 financial regulator”.

10 (7) PERSON ENGAGED IN THE BUSINESS OF
11 CONDUCTING FINANCIAL ACTIVITIES.—The term
12 “person engaged in the business of conducting finan-
13 cial activities” includes, to the extent appropriate
14 under the laws applicable to the jurisdiction of a fi-
15 nancial regulator over such person—

16 (A) any director, officer, employee, or con-
17 trolling stockholder of, or agent for, any such
18 person;

19 (B) any other person who has filed or is
20 required to file a change-in-control notice with
21 the appropriate financial regulator before ac-
22 quiring control of such person; and

23 (C) any person who has sought approval
24 from a financial regulator to engage in the
25 business of conducting financial activities, or



1 that was engaged in such business and subject
2 to the jurisdiction of a financial regulator; and

3 (D) any shareholder, consultant, joint ven-
4 ture partner, and any other person, including
5 an independent contractor, as determined by
6 the appropriate financial regulator (by regula-
7 tion or case-by-case) who participates in the
8 conduct of the affairs of such person.

9 (8) STATE INSURANCE COMMISSIONER.—The
10 term “State insurance commissioner” means any of-
11 ficer, agency, or other entity of any State which has
12 primary regulatory authority over the business of in-
13 surance and over any person engaged in the business
14 of insurance to the extent of such activities, in such
15 State.

16 (9) STATE SECURITIES ADMINISTRATOR.—The
17 term “State securities administrator” means the se-
18 curities commission (or any agency or office per-
19 forming like functions) of any State.

20 **SEC. 116. TECHNICAL AND CONFORMING AMENDMENTS TO**
21 **OTHER ACTS.**

22 (a) Subsection (b) of section 552a of title 5, United
23 States Code, is amended—

24 (1) by striking “or” at the end of paragraph
25 (11);



1 (2) by striking the period at the end of para-
2 graph (12) and inserting “; or”; and

3 (3) by inserting after paragraph (12) the fol-
4 lowing new paragraph:

5 “(13) for recordkeeping, licensing, and other
6 regulatory and law enforcement purposes in accord-
7 ance with title I of the Financial Services Antifraud
8 Network Act of 2001—

9 “(A) through a computer network or
10 name-relationship index maintained under such
11 title; or

12 “(B) to a multistate database maintained
13 by the National Association of Insurance Com-
14 missioners and any subsidiary or affiliate of
15 such association, subject to the requirements of
16 such title.”.

17 (b) Section 1113 of the Financial Institutions Regu-
18 latory and Interest Rate Control Act of 1978 (12 U.S.C.
19 3413) is amended by adding at the end the following new
20 subsection:

21 “(r) This title shall not apply to disclosure by a finan-
22 cial regulator represented by a member of or liaison to
23 the Antifraud Subcommittee of information which is sub-
24 ject to section 111 or 112 of the Financial Services Anti-
25 fraud Network Act of 2001 to the extent the disclosure



1 is made in accordance with the requirements of such
2 Act.”.

3 (c) Section 602 of the Consumer Credit Protection
4 Act (15 U.S.C. 1681) is amended by adding at the end
5 the following new subsection:

6 “(c) This title shall not apply to a communication by
7 a participant of the Antifraud Subcommittee to another
8 such participant, as set forth in the Financial Services
9 Antifraud Network Act of 2001, to the extent the commu-
10 nication is made in accordance with such Act.”.

11 **SEC. 117. AUDIT OF STATE INSURANCE REGULATORS.**

12 (a) IN GENERAL.—At the request of the Congress,
13 the Comptroller General shall audit a State insurance reg-
14 ulator or any person who maintains information on behalf
15 of such regulator, but may carry out an onsite examina-
16 tion of an insurance company only if the State insurance
17 regulator of the State of domicile of the insurance com-
18 pany has consented in writing.

19 (b) LIMITATIONS ON DISCLOSURE OF INFORMA-
20 TION.—Except as provided in this subsection, an officer
21 or employee of the General Accounting Office may not dis-
22 close information identifying an open insurance company
23 or a customer of an open or closed insurance company.
24 The Comptroller General may disclose information related
25 to the affairs of a closed insurance company only if the



1 Comptroller General believes the customer had a control-
2 ling influence in the management of the closed insurance
3 company or was related to or affiliated with a person or
4 group having a controlling influence.

5 (c) COORDINATION WITH STATE REGULATOR.—An
6 officer or employee of the Office may discuss a customer
7 or insurance company with an official of a State insurance
8 regulator and may report an apparent criminal violation
9 to an appropriate law enforcement authority of the United
10 States Government or a State.

11 (d) CONGRESSIONAL OVERSIGHT.—This subsection
12 shall not be construed as authorizing an officer or em-
13 ployee of a State insurance regulator to withhold informa-
14 tion from a committee of the Congress authorized to have
15 the information.

16 (e) ADMINISTRATIVE ASPECTS OF AUDIT.—

17 (1) IN GENERAL.—To carry out this section, all
18 records and property of or used by a State insurance
19 regulator, including samples of reports of examina-
20 tions of an insurance company the Comptroller Gen-
21 eral considers statistically meaningful and
22 workpapers and correspondence related to the re-
23 ports shall be made available to the Comptroller
24 General. The Comptroller General shall give a State
25 insurance regulator a current list of officers and em-



1 ployees to whom, with proper identification, records
2 and property may be made available, and who may
3 make notes or copies necessary to carry out an
4 audit.

5 (2) PREVENTION OF UNAUTHORIZED ACCESS.—

6 The Comptroller General shall prevent unauthorized
7 access to records or property of or used by a State
8 insurance regulator that the Comptroller General ob-
9 tains during an audit.

10 (f) CONFIDENTIALITY.—

11 (1) IN GENERAL.—The Comptroller General
12 shall maintain the same level of confidentiality for a
13 record made available under this section as is re-
14 quired of the head of the State insurance regulator
15 from which it is obtained.

16 (2) PREVENTION OF INVASION OF PERSONAL
17 PRIVACY.—The Comptroller General shall keep in-
18 formation described in section 552(b)(6) of title 5,
19 United States Code, that the Comptroller General
20 obtains in a way that prevents unwarranted inva-
21 sions of personal privacy.

22 (g) AVAILABILITY OF INFORMATION AND INSPEC-
23 TION OF RECORDS.—Section 716 of title 31, United
24 States Code, shall apply with respect to the Comptroller
25 General, a State insurance regulator or any person who



1 maintains information on behalf of such regulator, for
2 purposes of carrying out this section.

3 (h) DEFINITIONS.—For purposes of this section, the
4 following definitions shall apply:

5 (1) STATE INSURANCE REGULATOR DEFINED.—

6 The term “State insurance regulator” means the
7 principal insurance regulatory authority of a State,
8 the District of Columbia, any territory of the United
9 States, Puerto Rico, Guam, American Samoa, the
10 Trust Territory of the Pacific Islands, the Virgin Is-
11 lands, and the Northern Mariana Islands.

12 (2) INSURANCE COMPANY.—The term “insur-
13 ance company” includes any person engaged in the
14 business of insurance to the extent of such activities.

15 **TITLE II—SECURITIES**
16 **INDUSTRY COORDINATION**
17 **Subtitle A—Disciplinary**
18 **Information**

19 **SEC. 201. INVESTMENT ADVISERS ACT OF 1940.**

20 Section 204 of the Investment Advisers Act of 1940
21 (15 U.S.C. 80b–4) is amended—

22 (1) by striking “Every investment” and insert-
23 ing the following:

24 “(a) IN GENERAL.—Every investment”; and

25 (2) by adding at the end the following:



1 “(b) FILING DEPOSITORIES.—The Commission, by
2 rule, may require an investment adviser—

3 “(1) to file with the Commission any fee, appli-
4 cation, report, or notice required to be filed by this
5 title or the rules issued under this title through any
6 entity designated by the Commission for that pur-
7 pose; and

8 “(2) to pay the reasonable costs associated with
9 such filing and the establishment and maintenance
10 of the systems required by subsection (c).

11 “(c) ACCESS TO DISCIPLINARY AND OTHER INFOR-
12 MATION.—

13 “(1) MAINTENANCE OF SYSTEM TO RESPOND
14 TO INQUIRIES.—The Commission shall require the
15 entity designated by the Commission under sub-
16 section (b)(1)—

17 “(A) to establish and maintain a toll-free
18 telephone listing or other readily accessible elec-
19 tronic process to receive inquiries regarding dis-
20 ciplinary actions and proceedings and other in-
21 formation involving investment advisers and
22 persons associated with investment advisers;
23 and

24 “(B) to respond promptly to such inquir-
25 ies.



1 “(2) RECOVERY OF COSTS.—An entity des-
2 ignated by the Commission under subsection (b)(1)
3 may charge persons, other than individual investors,
4 reasonable fees for responses to inquiries made
5 under paragraph (1).

6 “(3) LIMITATION ON LIABILITY.—An entity
7 designated by the Commission under subsection
8 (b)(1) shall not have any liability to any person for
9 any actions taken or omitted in good faith under
10 this subsection.”.

11 **SEC. 202. SECURITIES EXCHANGE ACT OF 1934.**

12 Subsection (i) of section 15A of the Securities Ex-
13 change Act of 1934 (15 U.S.C. 78o–3) is amended to read
14 as follows:

15 “(i) OBLIGATION TO MAINTAIN DISCIPLINARY AND
16 OTHER DATA.—

17 “(1) MAINTENANCE OF SYSTEM TO RESPOND
18 TO INQUIRIES.—A registered securities association
19 shall—

20 “(A) establish and maintain a toll-free tele-
21 phone listing or other readily accessible elec-
22 tronic process to receive inquiries regarding dis-
23 ciplinary actions and proceedings and other in-
24 formation involving its members and their asso-
25 ciated persons and regarding disciplinary ac-



1 tions and proceedings and other information
2 that has been reported to the Central Registra-
3 tion Depository by any registered national secu-
4 rities exchange involving its members and their
5 associated persons; and

6 “(B) promptly respond to such inquiries.

7 “(2) RECOVERY OF COSTS.—Such association
8 may charge persons, other than individual investors,
9 reasonable fees for responses to such inquiries.

10 “(3) LIMITATION ON LIABILITY.—Such an asso-
11 ciation or exchange shall not have any liability to
12 any person for any actions taken or omitted in good
13 faith under this subsection.”.

14 **Subtitle B—Preventing Migration**
15 **of Rogue Financial Profes-**
16 **sionals to the Securities Indus-**
17 **try**

18 **SEC. 211. SECURITIES EXCHANGE ACT OF 1934.**

19 (a) BROKERS AND DEALERS.—Section 15(b) of the
20 Securities Exchange Act of 1934 (15 U.S.C. 78o(b)) is
21 amended—

22 (1) in paragraph (4), by striking subparagraphs
23 (F) and (G) and inserting the following:



1 “(F) is subject to any order of the Commission
2 barring or suspending the right of the person to be
3 associated with a broker or dealer.

4 “(G) has been found by a foreign financial reg-
5 ulatory authority to have—

6 “(i) made or caused to be made in any ap-
7 plication for registration or report required to
8 be filed with a foreign financial regulatory au-
9 thority, or in any proceeding before a foreign fi-
10 nancial regulatory authority with respect to reg-
11 istration, any statement that was at the time
12 and in the light of the circumstances under
13 which it was made false or misleading with re-
14 spect to any material fact, or omitted to state
15 in any such application, report, or proceeding
16 any material fact that is required to be stated
17 therein;

18 “(ii) violated any foreign statute or regula-
19 tion regarding securities, banking, thrift activi-
20 ties, credit union activities, insurance, or con-
21 tracts of sale of a commodity for future deliv-
22 ery, traded on or subject to the rules of a con-
23 tract market or any board of trade; or

24 “(iii) aided, abetted, counseled, com-
25 manded, induced, or procured the violation by



1 any other person of any provision of any statu-
2 tory provisions enacted by a foreign govern-
3 ment, or rules or regulations thereunder, re-
4 garding securities, banking, thrift activities,
5 credit union activities, insurance, or contracts
6 of sale of a commodity for future delivery trad-
7 ed on or subject to the rules of a contract mar-
8 ket or any board of trade, or to have failed rea-
9 sonably to supervise, with a view to preventing
10 violations of such statutory provisions, rules,
11 and regulations, another person who commits
12 such a violation, if such other person is subject
13 to his supervision.

14 “(H) is subject to any final order of a State se-
15 curities commission (or any agency or officer per-
16 forming like functions), State authority that super-
17 vises or examines banks, thrifts, or credit unions,
18 State insurance commission (or any agency or office
19 performing like functions), an appropriate Federal
20 banking agency (as defined in section 3 of the Fed-
21 eral Deposit Insurance Act (12 U.S.C. 1813(q)), or
22 the National Credit Union Administration, that—

23 “(i) bars such person from association with
24 an entity regulated by such commission, author-
25 ity, agency, or officer, or from engaging in the



1 business of securities, insurance, banking, thrift
2 activities, or credit union activities; or

3 “(ii) constitutes a final order based on vio-
4 lations of any laws or regulations that prohibit
5 fraudulent, manipulative, or deceptive con-
6 duct.”; and

7 (2) in paragraph (6)(A)(i), by striking “or
8 omission enumerated in subparagraph (A), (D), (E),
9 or (G)” and inserting “, or is subject to an order or
10 finding, enumerated in subparagraph (A), (D), (E),
11 (G), or (H)”.

12 (b) MUNICIPAL SECURITIES BROKERS AND DEAL-
13 ERS.—Section 15B(c) of the Securities Exchange Act of
14 1934 (15 U.S.C. 78o–4(c)) is amended—

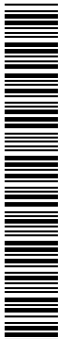
15 (1) in paragraph (2)—

16 (A) by striking “or omission enumerated in
17 subparagraph (A), (D), (E), or (G)” and insert-
18 ing “, or is subject to an order or finding, enu-
19 merated in subparagraph (A), (D), (E), (G), or
20 (H)”;

21 (B) by striking “ten” and inserting “10”;

22 (2) in paragraph (4)—

23 (A) by striking “or omission enumerated in
24 subparagraph (A), (D), (E), or (G)” and insert-
25 ing “, or is subject to an order or finding, enu-



1 merated in subparagraph (A), (D), (E), (G), or
2 (H)” and

3 (B) by striking “ten” and inserting “10”;

4 (c) GOVERNMENT SECURITIES BROKERS AND DEAL-
5 ERS.—Section 15C(c)(1) of the Securities Exchange Act
6 of 1934 (15 U.S.C. 78o–5(c)(1)) is amended—

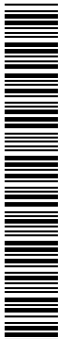
7 (1) in subparagraph (A), by striking “or omis-
8 sion enumerated in subparagraph (A), (D), (E), or
9 (G)” and inserting “, or is subject to an order or
10 finding, enumerated in subparagraph (A), (D), (E),
11 (G), or (H)”;

12 (2) in subparagraph (C), by striking “or omis-
13 sion enumerated in subparagraph (A), (D), (E), or
14 (G)” and inserting “, or is subject to an order or
15 finding, enumerated in subparagraph (A), (D), (E),
16 (G), or (H)”.

17 (d) CLEARANCE AND SETTLEMENT.—Section 17A(c)
18 of the Securities Exchange Act of 1934 (15 U.S.C. 78q–
19 1(c)) is amended—

20 (1) in paragraph (3)(A), by striking “enumer-
21 ated in subparagraph (A), (D), (E), or (G)” and in-
22 serting “, or is subject to an order or finding, enu-
23 merated in subparagraph (A), (D), (E), (G), or
24 (H)”;

25 (2) in paragraph (4)(C)—



1 (A) by striking “enumerated in subpara-
2 graph (A), (D), (E), or (G)” and inserting “,
3 or is subject to an order or finding, enumerated
4 in subparagraph (A), (D), (E), (G), or (H)”;
5 and

6 (B) by striking “ten years” and inserting
7 “10 years”.

8 (e) DEFINITION OF STATUTORY DISQUALIFICA-
9 TION.—Section 3(a)(39)(F) of the Securities Exchange
10 Act of 1934 (15 U.S.C. 78c(a)(39)(F)) is amended by
11 striking “has committed or omitted any act enumerated
12 in subparagraph (D), (E), or (G)” and inserting “has
13 committed or omitted any act, or is subject to an order
14 or finding, enumerated in subparagraph (D), (E), (G), or
15 (H)”.

16 **SEC. 212. INVESTMENT ADVISERS ACT OF 1940.**

17 (a) AUTHORITY TO DENY OR REVOKE REGISTRA-
18 TION BASED ON STATE (AND OTHER GOVERNMENTAL)
19 ADMINISTRATIVE ACTIONS.—Section 203(e) of the Invest-
20 ment Advisers Act of 1940 (15 U.S.C. 80b–3(e)) is
21 amended by striking paragraphs (7) and (8) and inserting
22 the following:

23 “(7) is subject to any order of the Commission
24 barring or suspending the right of the person to be
25 associated with an investment adviser.

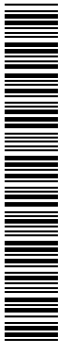


1 “(8) has been found by a foreign financial regu-
2 latory authority to have—

3 “(A) made or caused to be made in any
4 application for registration or report required to
5 be filed with a foreign securities authority, or in
6 any proceeding before a foreign securities au-
7 thority with respect to registration, any state-
8 ment that was at the time and in light of the
9 circumstances under which it was made false or
10 misleading with respect to any material fact, or
11 has omitted to state in any such application, re-
12 port, or proceeding any material fact that is re-
13 quired to be stated therein;

14 “(B) violated any foreign statute or regula-
15 tion regarding securities, banking, thrift activi-
16 ties, credit union activities, insurance, or con-
17 tracts of sale of a commodity for future delivery
18 traded on or subject to the rules of a contract
19 market or any board of trade;

20 “(C) aided, abetted, counseled, com-
21 manded, induced, or procured the violation by
22 any other person of any foreign statute or regu-
23 lation regarding securities, banking, thrift ac-
24 tivities, credit union activities, insurance, or
25 contracts of sale of a commodity for future de-

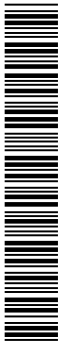


1 livery traded on or subject to the rules of a con-
2 tract market or any board of trade, or to have
3 failed reasonably to supervise, with a view to
4 preventing violations of statutory provisions,
5 and rules and regulations promulgated there-
6 under, another person who commits such a vio-
7 lation, if such other person is subject to his su-
8 pervision.

9 “(9) is subject to any final order of a State se-
10 curities commission (or any agency or officer per-
11 forming like functions), State authority that super-
12 vises or examines banks, thrifts, or credit unions,
13 State insurance commission (or any agency or office
14 performing like functions), an appropriate Federal
15 banking agency (as defined in section 3 of the Fed-
16 eral Deposit Insurance Act (12 U.S.C. 1813(q)), or
17 the National Credit Union Administration, that—

18 “(A) bars such person from association
19 with an entity regulated by such commission,
20 authority, agency, or officer, or from engaging
21 in the business of securities, insurance, bank-
22 ing, thrift activities, or credit union activities;
23 or

24 “(B) constitutes a final order based on vio-
25 lations of any laws or regulations that prohibit



1 fraudulent, manipulative, or deceptive con-
2 duct.”.

3 (b) BARS ON FELONS ASSOCIATED WITH INVEST-
4 MENT ADVISERS.—Section 203(f) of the Investment Ad-
5 visers Act of 1940 (15 U.S.C. 80b–3(f)) is amended—

6 (A) by striking “or (8)” and inserting
7 “(8), or (9)”; and

8 (B) by inserting “or (3)” after “paragraph
9 (2)”.

